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2                   IN THE UNITED STATES DISTRICT COURT  
3                   FOR THE WESTERN DISTRICT OF MISSOURI  
4                   WESTERN DIVISION

5                   UNITED STATES OF AMERICA,            ) Case No. 11-00109-01-CR-W-DGK  
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TRANSCRIPT OF PRELIMINARY AND DETENTION HEARING  
BEFORE THE HONORABLE ROBERT E. LARSEN  
CHIEF UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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1 (Court in Session at 1:32 p.m.)

2 THE COURT: Be seated everyone. Good afternoon.

3 MR. DALY: Good afternoon.

4 MR. ROSS: Good afternoon, Your Honor.

5 THE COURT: I'm calling the case of the *United States of*  
6 *America vs. Corey M. McKinney*. The number of the case is 11-44-  
7 REL-01. Let me get the Assistant U.S. Attorney's appearance,  
8 please.

9 MR. DALY: Yes, Your Honor. Patrick Daly appearing on  
10 behalf of the United States with my case agent, Greg Harmon.

11 THE COURT: Thank you. And counsel for Mr. McKinney.

12 MR. ROSS: Dan Ross for defendant. He's appearing in  
13 custody and person.

14 THE COURT: Thank you. We're here to do the preliminary  
15 examination in the hearing on the question of bond or detention.  
16 I have a waiver of the preliminary which has been executed by  
17 both Mr. Ross and by his client. I'll just ask a couple of  
18 questions of Mr. McKinney about this. Sir, have you had an  
19 adequate opportunity to review the waiver and talk about it with  
20 your counsel here?

21 MR. MCKINNEY: Yes, sir, I have.

22 THE COURT: Is there anything about the preliminary  
23 hearing that you don't understand?

24 MR. MCKINNEY: No, sir, I understand it.

25 THE COURT: Is there anyone that's made any threats or

1 promises to get you to waive your right to the hearing?

2 MR. MCKINNEY: No, sir.

3 THE COURT: Do you want to ask me any questions about it  
4 before I accept your waiver?

5 MR. MCKINNEY: Not at this time, sir.

6 THE COURT: I do find this is both knowledgeable and  
7 intentional on the part of Mr. McKinney. I do sign the document  
8 reflecting my approval of the waiver, and I'm directing the  
9 United States to proceed to the grand jury within the next 30  
10 days as required by law. The next issue is the question of bond  
11 or detention. I'm going to judicially notice the affidavit in  
12 support of the criminal complaint here. The detective is present  
13 in court. If anybody wants to call him, I'll allow that. I'm  
14 also going to judicially notice the fact that this is the type of  
15 a violation that Congress has told us that there should be a  
16 presumption against release. And so, that's one of several  
17 things that I have to consider. Also, I have been provided with  
18 a copy of the Pretrial Services Report on Mr. McKinney. I've  
19 read that. I assume everyone has seen it. Any corrections by  
20 the United States to that report?

21 MR. DALY: None for the United States, Your Honor.

22 THE COURT: Any corrections, Mr. Ross, that you or your  
23 client want to bring to my attention?

24 MR. ROSS: Yes, Your Honor. If the Court please, at  
25 page -- the last page, which would be page 3, the very last

1 sentence is a paragraph attributing information from the AUSA Pat  
2 Daly to Mr. Hair for Pretrial Services, the last sentence, he  
3 added, and I'm quoting, he added "The defendant is considered a  
4 legal guardian of the 16-year-old." We strongly disagree with  
5 that assertion. My independent research has determined he has no  
6 legal status and connection with this individual. There is  
7 simply a -- he was residing -- or she was, C was residing with my  
8 client on the occasion. I'm referring to C.H., who is referenced  
9 as a suspect/victim in this case. She is the 16 year old female.

10 THE COURT: Okay.

11 MR. ROSS: But there is not a formal legal guardianship  
12 relationship.

13 THE COURT: Okay. I'll accept that proffer from  
14 counsel. Mr. Daly, do you have any additional information on  
15 that issue?

16 MR. DALY: Well, we can elicit evidence from our  
17 detective on --

18 THE COURT: Okay.

19 MR. DALY: -- direct examination.

20 THE COURT: Okay. All right. So, but with regard to  
21 the report though, I am going to, at this point, not rely on that  
22 information in the report until we hear what the detective has to  
23 say. So, I'll grant Mr. Ross's objection to that portion of the  
24 report at this time. But other than that, there's no problem  
25 with stipulating that our Pretrial Service officer would testify

1 in accordance with the information in the report?

2 MR. ROSS: So stipulated.

3 THE COURT: Is that the case with you too?

4 MR. DALY: Yes, Your Honor.

5 THE COURT: Right. Okay. All right. Now, so, is there  
6 additional evidence by the United States?

7 MR. DALY: We do, Your Honor.

8 THE COURT: All right. If you'd go ahead and call your  
9 witness up here.

10 MR. DALY: The United States calls Detective Greg Harmon  
11 to the stand.

12 THE COURT: Would you raise your right hand, sir?

13 GREG HARMON, GOVERNMENT'S WITNESS, SWORN

14 THE COURT: Go ahead and take the stand. When you get  
15 up there, it may make a noise to adjust. It's just adjusting for  
16 weight. That's all.

17 THE WITNESS: Okay.

18 DIRECT EXAMINATION

19 BY MR. DALY:

20 Q. Good afternoon, Detective Harmon.

21 A. Afternoon.

22 Q. Can you please state and spell your full name for the benefit  
23 of the Court?

24 A. Yes. My name is Greg Harmon, G-R-E-G H-A-R-M-O-N.

25 Q. And what is your current title and responsibilities?

1 A. I'm a detective with the Kansas City, Missouri Police  
2 Department, assigned to the Vice Section of the Narcotics and  
3 Vice Division.

4 Q. And in that section, what are your responsibilities? What  
5 sort of crimes do you investigate?

6 A. I mainly investigate crimes involving human trafficking.

7 Q. Okay. We just heard some statements as to the issue that the  
8 characterization of the victim in this case or -- excuse me --  
9 the defendant as being the guardian or the legal guardian for the  
10 16-year-old.

11 A. Yes.

12 Q. There were some representations, obviously, in the Pretrial  
13 Service Report as well as in the -- your investigation. What did  
14 you learn as it relates to whether or not Mr. McKinney is the  
15 guardian of the victim in this case?

16 A. We were told by the minor victim that he was her brother, and  
17 we were also told by a school resource officer for the school in  
18 which she attends that he's listed on the contact information as  
19 a guardian.

20 Q. Okay. And that she is residing at his location and goes to a  
21 school in that area?

22 A. Correct.

23 Q. And that's the residence at -- where's he?

24 A. Oak Street.

25 Q. Okay. Now go -- let's step back for a moment. How did you

1 first learn of this case? How did your office first learn of  
2 this case?

3 A. We had a male victim that showed up at one of our patrol  
4 stations claiming that money was being extorted from him from the  
5 defendant -- or by the defendant.

6 Q. Okay. And when you learned that, what did he tell about this  
7 attempt to extortion? What did this extortion scheme entail?

8 A. He was contacted, our mail victim was contacted, via  
9 Facebook, by a female who stated that she was 17 years old.  
10 During the course of the Facebook contact, she -- they chatted  
11 and then exchanged phone numbers. Then they text messaged back  
12 and forth, and they made arrangements for that evening to -- for  
13 the male victim to show up at the female victim's house off Oak  
14 Street.

15 Q. Okay. And a lot of this information is in your affidavit  
16 that you filed in this case, correct?

17 A. Correct.

18 Q. So, upon his arrival at Oak Street on -- do you recall what  
19 date that was?

20 A. The text messaging started or the initial contact started the  
21 23<sup>rd</sup>, but he did not arrive until midnight, which would have been  
22 the 24<sup>th</sup>.

23 Q. Okay. And when he arrived there, did they have sex?

24 A. Correct. They had sex.

25 Q. Did they make arrangements to meet the next time, the next

1 day?

2 A. I believe they talked the next day and then made arrangements  
3 to meet again.

4 Q. Okay. And did he eventually return to the residence?

5 A. Yes, he did.

6 Q. What happened then?

7 A. When he returned to the residence, they were in the course of  
8 beginning to have sex. They were both naked when the defendant  
9 entered the room and confronted our male victim.

10 Q. And what happened at that point?

11 A. The defendant explained to the male victim that the female  
12 victim was, in fact, 16 years of age, and that basically, he  
13 wanted money from the male victim so that he would not pursue any  
14 kind of criminal charges with this.

15 Q. And did he have any kind of weapon in his hand or mallet or  
16 any?

17 A. The male victim explained that he had some sort of a mallet  
18 in his hand or in his coat pocket.

19 Q. Okay. And did the female victim say anything about who this  
20 person was and his name?

21 A. She explained that it was her brother, and the male victim  
22 knew the defendant as Monroe.

23 Q. Okay. And what's the male defendant's full name?

24 A. Corey Monroe McKinney.

25 Q. Okay. Now, he demanded money. Did he eventually get money?



1 A. That night?

2 Q. Yes.

3 A. The male victim explained that he only had \$160 in his  
4 checking account. So, the arrangement was to walk to a nearby  
5 ATM, withdraw a portion, which ended up being \$100, and that was  
6 going to be the initial payment.

7 Q. Have you had any chance to look at any surveillance of the  
8 ATM where this occurred?

9 A. We were able to get surveillance video from the ATM, actually  
10 surveillance stills from the ATM, and it did show our victim,  
11 male victim, getting money out with the defendant kind of around  
12 the corner a little bit away from the front of the ATM.

13 Q. And so, he's not in front of the ATM, but he's off to the  
14 side of it?

15 A. Correct. This was not the camera that's located on the ATM  
16 but rather a camera above that gets a wider angle.

17 Q. Okay. And after this initial payment of money, was there a  
18 demand for more money?

19 A. There was an arrangement set for a later date to get  
20 additional money, yes.

21 Q. Okay. And did the informant advise you that the defendant  
22 said anything in relation to what he would do if he wasn't paid?

23 A. If he didn't pay, he was going to alert the police as to what  
24 happened with the sexual encounter. He was going to send the  
25 video. There was a video taken of the sexual contact. He was

1 going to send that to the news agency. And he also explained  
2 that later he had sent that with an encrypted code that had not  
3 been attached, and he was going to go through our male victim's  
4 friends on Facebook and send them the video also.

5 Q. Did he communicate these things via text message?

6 A. Yes.

7 Q. And are you aware of the phone number that he used to  
8 communicate those text messages?

9 A. Yes, I do. It was the phone number associated with -- on Mr.  
10 McKinney's Facebook page.

11 Q. And how do you know it was Mr. McKinney's phone?

12 A. We just called it moments ago, and the voicemail says this is  
13 Mr. Corey McKinney.

14 Q. So, after that occurs, you're working, you spoke with the  
15 informant. Was there any sort of arrangement for the payment to  
16 be made to Mr. McKinney?

17 A. Correct. The male victim was receiving messages, kind of  
18 increasing the demand for money. So, we arranged to set up a  
19 controlled delivery, I guess you could call it, to where our  
20 informant, male victim, would drop off the money, and then if the  
21 defendant were to show up, they would arrest him.

22 Q. And did that happen?

23 A. Yes, it did.

24 Q. All right. Could you describe what happened and what date  
25 that occurred on?

1 A. It was April the 7<sup>th</sup>, and the defendant had texted specific  
2 instructions to our male victim as to how the money was going to  
3 be given to him. And in the instructions, he explained to put  
4 the money into an envelope and then to put that envelope into a  
5 manilla envelope, and that envelope was to be dropped off to the  
6 security guard at DeVry University.

7 Q. And was there anything written on the envelope?

8 A. There was a letter -- the letter D and a series of numbers  
9 written on the outside of the envelope.

10 Q. And is there any significance to that series of numbers?

11 A. I contacted DeVry, and that is Mr. McKinney's Student ID  
12 number.

13 Q. Okay. And did your male victim eventually drop that money  
14 off at that security desk?

15 A. Yes, he did.

16 Q. And were you surveilling this at the time?

17 A. Yes. We actually supplied the money with recorded currency  
18 that we had and gave it to our male victim. Prior to him  
19 arriving at DeVry, myself and another detective located ourselves  
20 directly across from the security office, and we watched the  
21 transaction between the male victim with the security officer.  
22 Actually, our male victim handed him the package, and the male --  
23 or the security officer then handed him another package, and our  
24 victim then left. Shortly thereafter, Mr. McKinney then showed  
25 up to the security desk and retrieved the package with the money.

1 Q. And what happened at that point?

2 A. He was placed under arrest. And then shortly, feet away  
3 basically, was -- the female victim was located also.

4 Q. And did you speak to her at that time?

5 A. We, at that -- Mr. McKinney was transported to police  
6 headquarters' jail, and the female victim was transported to the  
7 Sex Crimes Unit, so that an interview could be conducted.

8 Q. And upon your making contact with her, did -- well, did you  
9 recover anything from the informant or the security desk?

10 A. The informant was given a package, and inside the package was  
11 a USB flash drive. He believed he was giving the money to the  
12 security guard and were going to receive the video from the  
13 sexual encounter with the minor -- that he had with the minor,  
14 the minor female victim. We did retrieve that, yes.

15 Q. And did you have a chance to look at that USB?

16 A. Yes, I did.

17 Q. And what's on the USB?

18 A. On that one, it was a -- it was the recorded sexual encounter  
19 between the male victim and the female minor victim.

20 Q. Okay. Was there another USB drive recovered in this?

21 A. Yes, there was. When we made contact with the minor female  
22 victim, she had in her possession a cell phone that belonged to  
23 her and another USB flash drive.

24 Q. And did you have a chance to look at those items?

25 A. Correct. On her version of the flash drive, that was a

1 longer version, which included the setting up of the camera and  
2 the taking down of the camera. The beginning and the end were  
3 not on the male victim's version.

4 Q. Besides that distinction between the version that the  
5 informant got and the version that the female victim had, was  
6 there anything notable in what you were able to see in the video  
7 that the female victim had?

8 A. Yes, the version she had, it showed a male setting up the  
9 video, and at the end of the video, it also showed a male and a  
10 brief, a brief flash of the defendant's face.

11 Q. Okay. Did you have a chance to look at the phone that she  
12 had in her possession?

13 A. Yes, I did.

14 Q. And she provided consent to do this?

15 A. Yes, yes.

16 Q. Okay. I'm going to approach you with what we've marked as  
17 Government's Exhibit #1. I've already provided it to the  
18 defense.

19 MR. DALY: May I approach, Your Honor?

20 THE COURT: Yeah.

21 BY MR. DALY:

22 Q. And, Detective Harmon, we certainly don't need to go through  
23 each picture here. But can you briefly describe for the Court  
24 what these -- this series of pictures contains?

25 A. These are photos of Mr. McKinney, the defendant, and photos

1 of the female victim.

2 Q. Okay. And these were photos taken -- received from her  
3 image --

4 A. This is directly from her phone.

5 Q. And do you know the approximate dates and times these photos  
6 would have been taken?

7 A. From the time stamp on the phone, whenever we retrieved all  
8 this, all the images off, it appeared as if it was March 21<sup>st</sup>  
9 between the hours of 10:27 to 11:52 p.m.

10 Q. But it's -- the date stamp, is that in Greenwich Mean Time,  
11 and it says like March 22<sup>nd</sup> and --

12 A. It --

13 Q. Yeah.

14 A. It was initially time stamped in Greenwich Meridian.

15 Q. Right.

16 A. And then through a conversion, we were able to pinpoint these  
17 dates and times.

18 Q. Okay. I'm going to show you what we've previously marked as  
19 Government's Exhibit #2. The defense has been provided a copy.

20 MR. DALY: May I approach, Your Honor?

21 THE COURT: Yeah.

22 MR. DALY: Thank you.

23 BY MR. DALY:

24 Q. And can you describe what we see there in those images, on  
25 Government's Exhibit #2?

1 A. These are still photos taken of the video with the sexual  
2 encounter between the male victim and the female victim.

3 Q. And these photos were recovered from where?

4 A. These were recovered from her phone also.

5 Q. Okay. And you say still images. Is it as if she's holding a  
6 phone to the screen that the video's playing on?

7 A. Yes.

8 Q. Okay. And you've had a chance to look at that video  
9 eventually. Are these images consistent --

10 A. These are consistent with the images or the video that were  
11 on the USB flash drives.

12 Q. Okay. Did you also have a chance to look at the phone of the  
13 male victim in this case?

14 A. Yes.

15 MR. DALY: Your Honor, at this time I'd like to approach  
16 the Government witness with Government's Exhibit #3, which has  
17 also been previously provided to the defendant.

18 THE COURT: Okay.

19 BY MR. DALY:

20 Q. And could you describe for the Court what you see there in  
21 Government's Exhibit #3?

22 A. These are the same photos of the video that were on her phone  
23 also. They were received in a text message form.

24 Q. And as you look at that, if you look at the picture in the  
25 top right corner as we're looking at it, what is the phone number

1 it says it's received from?

2 A. 816-423-1027.

3 Q. And how is that number significant?

4 A. It's the number belonging to Mr. McKinney.

5 Q. And is there a message at the bottom of that picture in the  
6 top right corner?

7 A. It says "Someone sent this to me to remind you of staying on  
8 track."

9 Q. In addition to text messages, prior to the male victim's  
10 contacting your office, you made some reference that the  
11 defendant was going to send these or threaten to have sent them  
12 to somebody in the media. Did he threaten to send them to any  
13 other people associated with the male victim in this case?

14 A. He made reference to sending it to individuals that are  
15 friends with our victim that have -- or have friends status on  
16 Facebook, including his wife.

17 Q. And is it your understanding, do you know if the defendant  
18 ever did post anything about the male victim in this case on  
19 Facebook?

20 A. The defendant did make a post on his own Facebook account  
21 asking for information regarding our male victim, giving specific  
22 name of our male victim, the address of our male victim, the  
23 victim's wife's name and his place of employment.

24 Q. And have you had a chance to look at his Facebook page since  
25 that time?



1 A. Yes.

2 Q. Is that post still on his page?

3 A. It is not.

4 Q. Okay.

5 MR. DALY: At this time, the Government has no further  
6 questions for this witness, Your Honor.

7 THE COURT: Are you offering #1, #2 and #3?

8 MR. DALY: Yes, Your Honor. We offer those --

9 THE COURT: Any objection to #1, #2 and #3?

10 MR. ROSS: No.

11 THE COURT: For purposes of these proceedings, they're  
12 in. I am going to keep them under seal though, to protect the  
13 interests of the juvenile in this case. Any cross-examination?

14 MR. ROSS: Briefly, Your Honor.

15 THE COURT: Go ahead.

16 CROSS-EXAMINATION

17 BY MR. ROSS:

18 Q. Good afternoon, detective.

19 A. How do you do, sir?

20 Q. I want to ask you first about the guardian status. Your  
21 testimony is that you believe my -- or testified that my client  
22 was the female's legal guardian. Is that correct?

23 A. Uh-huh.

24 Q. Is that yes?

25 A. Yes, sir.

1 Q. And that was based on you being told at Center School that  
2 there was a document listing him as guardian?

3 A. He's listed --

4 Q. Did you see the document?

5 A. No, I did not, sir.

6 Q. Is it a document that exists?

7 A. I'm not sure if it's a paper document, an electronic document  
8 or how that's kept, sir.

9 Q. Do you know who provided the information? Well, let me make  
10 this a leading question. You do not know how the information got  
11 in to the Center School District document, do you?

12 A. No, sir.

13 Q. If it were provided by the female, the minor perhaps?

14 A. Yeah, I couldn't testify as to how the document --

15 Q. Or if they made it up, if they guessed, possibly?

16 A. Possibly, yes.

17 Q. Do you know that there is a legal status of guardianship in  
18 the state of Missouri? Do you know this?

19 MR. DALY: Objection, foundation.

20 MR. ROSS: He testified to it, Your Honor.

21 THE COURT: I'm going to let you ask the question. Go  
22 ahead. It's overruled. Go ahead.

23 THE WITNESS: Can you repeat the question? I'm sorry.

24 BY MR. ROSS:

25 Q. Yes. Guardianship is a legal status bestowed by a court,

1 usually a probate court, correct? Or do you know this?

2 A. I do not know, sir, no.

3 Q. So, you don't even know what guardianship is. Is that fair  
4 to say?

5 A. I do know what a guardian is, but I don't know what the state  
6 law is, if that's --

7 Q. Did you make any effort to look on Casenet, to call the  
8 probate division, to call DFS to see --

9 A. I did.

10 Q. And, in fact, you found out there was no record of him being  
11 the quote, "legal guardian" pursuant to a legal court of  
12 jurisdiction, correct?

13 A. I don't know what you're asking, but I'll tell you what I did  
14 find from Family Services. They did state that the mother of the  
15 female had signed power of attorney over to Mr. McKinney.

16 Q. Had signed power of attorney for purposes of attending Center  
17 School District, correct?

18 A. I don't know what her intentions for signing power of  
19 attorney were.

20 Q. Did you attempt to get a copy of the power of attorney when  
21 you were --

22 A. No.

23 Q. -- when you were talking to the Center School District  
24 individuals?

25 A. No, I did not.

1 Q. When you contacted someone who said there was a power of  
2 attorney signed by the real parent, allowing defendant some  
3 involvement, did you ask for a copy of that document?

4 A. No, we haven't had a chance to follow up with that, and we  
5 haven't had a chance -- we haven't been able to get in contact  
6 with the mother. Every phone number we've got either comes back  
7 to Mr. McKinney or may or may not be working. We cannot get in  
8 touch with the mother to get further clarification on the status.

9 Q. Your confidential informant is Mr. Russell. Is that right?

10 A. Correct.

11 Q. Have you viewed the entirety of the flash drive content with  
12 respect to Mr. Russell's images on that flash drive, at least the  
13 one that was recovered from the female?

14 A. Are you asking me if I've sat through the whole hour and 30  
15 minutes and watched it?

16 Q. Yes.

17 A. No.

18 Q. Why not?

19 A. Honestly, sir, because it's child porn, and I don't feel the  
20 need to sit through the whole child porn. I've reviewed pieces  
21 and kind of sped up and tried to do my due diligence with the  
22 images that were shown at the time and I have not sat and watched  
23 the whole hour and some odd minutes of the whole interaction.

24 Q. Based on your review of the flash drive, based on your --  
25 well, have you yourself had direct contact with Mr. Russell?

1 A. Yes.

2 Q. Do you believe that Mr. Russell believed the minor female  
3 that he was having sexual intercourse with on at least one  
4 occasion and intended to have on another occasion, do you believe  
5 that always suspected that she was a minor?

6 MR. DALY: Objection, foundation, speculation -- calls  
7 for speculation and relevance.

8 THE COURT: Do you know? Has he ever said anything to  
9 you about that?

10 THE WITNESS: He's never said anything to me about it.

11 THE COURT: Okay. Sustained.

12 BY MR. DALY:

13 Q. On the flash drive, was there a depiction of him stating I'm  
14 waiting for the "To Catch a Predator" camera crew to come in?

15 A. Yes, there was a question about that, yes, but he never  
16 stated that to me. And I thought that was your question. I'm  
17 sorry.

18 Q. Oh, I'm sorry. So, you do have information that was stated  
19 in some other form where he seemed to recognize this was a minor?

20 A. Yeah, it was rather a strange setup, for lack of better  
21 words. I mean, to be contacted out of the blue on Facebook and  
22 then that night be invited over to have sex -- or to meet with  
23 someone and possibly have sexual intercourse. It does sound like  
24 a setup to me.

25 Q. And, of course, he went for the setup bait and met this girl,

1 who he expected the "To Catch a Predator" cameras, as he  
2 announced on the flash drive, to come through the door at any  
3 time. He accepted that bait. In fact, had sex with her that  
4 night within hours.

5 A. Yes, he did.

6 Q. Was a deal struck with Mr. Russell?

7 MR. DALY: Objection, relevance.

8 THE COURT: Overruled.

9 BY MR. ROSS:

10 Q. Was a deal --

11 A. Which kind of deal, sir?

12 Q. -- struck. Was an agreement to defer prosecution of Mr.  
13 Russell for having knowing sex, sexual intercourse or contact  
14 with a minor, to your knowledge?

15 A. No deal was struck because that was never brought up. We  
16 never perceived him as a suspect because we didn't believe that  
17 he knowingly had sex with a minor.

18 Q. Had you concluded that he knowingly had sex with a minor,  
19 would you have considered him a suspect?

20 MR. DALY: Objection, calls for speculation.

21 THE COURT: Sustained.

22 BY MR. ROSS:

23 Q. Did he appear with an attorney at any time, Mr. Russell?

24 A. No.

25 Q. Your testimony is, also with respect to a mallet, I believe

1 it was referenced as a rubber mallet in your paperwork. I  
2 believe you testified it was just a mallet. It was a rubber  
3 mallet. Is that right?

4 A. That's what he explained it was, is a rubber mallet, yes,  
5 sir.

6 Q. And then I understand from your testimony that it was either  
7 in his hand or in his, the suspect's pocket, one or the other?

8 A. Correct. Correct. We were told by the minor victim that it  
9 was in a pocket. We were told by Mr. Russell that it was in his  
10 hand.

11 Q. A search warrant was served on the defendant's residence?

12 A. No.

13 Q. Was it searched? Was there a computer seized?

14 A. Yes, there was.

15 Q. How was the computer seized?

16 A. We were advised by the Child Abuse Hotline that the minor  
17 victim was able to go back to her residence. So, we transported  
18 her back there. Prior to going there, she signed a consent to  
19 search the computer, which we did not search. But in the process  
20 of taking her back to her residence, in the process of the  
21 officers taking her back there, they were able to observe a  
22 computer, which was consistent with the statement that she gave  
23 us to where the video was filmed from. So, it was seized.

24 Q. Was there plain view to a rubber mallet that was seized?

25 A. I don't believe a rubber mallet was observed in plain view.

1 So, no, a rubber mallet was not seized.

2 Q. Now, you have testified under oath that in connection, at  
3 least with the flash drive retrieved from the minor in this, the  
4 female, that there was, at the beginning prior to the recording  
5 of the sex acts, there was a male --

6 A. Correct.

7 Q. -- that was -- how do you know, what did you see in terms of  
8 setting up the camera by a male? How did you conclude it was a  
9 male?

10 A. You could see just the clothing that was worn. You could see  
11 hands. It was a man's hand. You couldn't see any facial  
12 features at that point in time. Basically, mid-chest to above  
13 the knee maybe.

14 Q. Okay. And then there's a span of, as you put it, child porn  
15 through the end of that flash drive. And at the end, there's a  
16 take down of the camera, correct?

17 A. Correct.

18 Q. And you don't watch everything in between because it's child  
19 porn, correct?

20 A. Correct. I did not watch everything.

21 Q. And then, but and it's a take down, and presumably again,  
22 it's a man based on his clothing and his hands, correct?

23 A. No, you see his face.

24 Q. Oh, you do? And you saw my client's face --

25 A. Correct.



1 Q. -- and that's your testimony under oath?

2 A. Yes, sir.

3 Q. And it's in connection with the take down of the camera?

4 A. Correct. It was a continuous running one event from  
5 beginning to end.

6 Q. Now, I believe in the Government's Exhibits #2 and #3, you  
7 have still photos from the flash drive that have been brought to  
8 court to help establish the Government's claims today?

9 A. Were those entered? I'm sorry. What your --

10 Q. They are entered, yes.

11 THE COURT: You're talking about the pictures, right?

12 MR. ROSS: Yes.

13 THE COURT: He's talking about Exhibits #1, #2, and #3.

14 THE WITNESS: No, sir, these are from our child victim's  
15 phone.

16 BY MR. ROSS:

17 Q. Let me ask you this. Could you have made still photos from  
18 the flash drive, including the photo of my client's face, that  
19 you claim appears on the flash drive?

20 A. One more time, sir. I apologize. I didn't understand what  
21 you were asking.

22 Q. Could you have made a still photo?

23 A. Could I have?

24 Q. Someone at your direction?

25 A. Yes, we very well could have.

1 Q. It wasn't done?

2 A. We may have. I'm not for sure.

3 Q. You brought what you thought was necessary. And I guess, I  
4 just want to make crystal clear on the record, you have  
5 personally observed this picture of my client on the flash drive  
6 associated with the take down or at least in the sequence --

7 A. Yes, sir.

8 Q. -- prior to the take down? Is it fair to say, just based on  
9 hands and clothing, you could not identify my client as being the  
10 male who put together or put up and took down the webcam?

11 A. Correct. I couldn't identify anybody on that.

12 MR. ROSS: One moment, please. That is all, Your Honor.  
13 Thank you.

14 THE COURT: Any additional examination?

15 MR. DALY: No, Your Honor.

16 THE COURT: You may step down. Any additional evidence  
17 by the United States?

18 MR. DALY: No further evidence, Your Honor.

19 THE COURT: Any evidence the defense wants to present?

20 MR. ROSS: No.

21 THE COURT: Okay. I'm ready to rule this. I'm going to  
22 make the finding that the defendant should be detained without  
23 bond based on the dangerousness prong of the statute. I'll get  
24 out a written order to that effect. And, Mr. McKinney, you can  
25 see it, and if you want to, you can appeal me. You have a right

1 to appeal me here within our court and ask another judge to look  
2 at it. And if don't get relief here, you can go up to the Eighth  
3 Circuit Court of Appeals and ask for relief from those judges. I  
4 think that's everything that we can cover today. Anything else  
5 on behalf of the United States?

6 MR. DALY: No, Your Honor.

7 THE COURT: Mr. Ross, anything else?

8 MR. ROSS: No, Your Honor. Thank you.

9 THE COURT: Thank you.

10 THE COURT: Thank you.

11 (Court Adjourned at 2:02 p.m.)  
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INDEXWITNESSES FOR  
THE PLAINTIFF:DIRECTCROSSREDIRECTRECROSS

Greg Harmon

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EXHIBITS:MARKEDADMITTED

G#1

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G#2

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6 I certify that the foregoing is a correct transcript  
7 from the electronic sound recording of the proceeding in the  
8 above-entitled matter.

9  
10 /s/ Lissa C. Whittaker  
Signature of transcriber

August 26, 2011  
Date